

Remarks

This reply is responsive to the Office communication mailed March 15, 2006. Page and paragraph references are to that communication unless otherwise indicated.

Claims 1-7 and 10-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,220,510 to Everett et al. ("Everett") (page 4). Applicants respectfully traverse.

Everett describes a so-called multi-application IC card with a delegation feature. As shown in Fig. 1, the logical data space allocation 101 created for a particular application includes a static data space 103, a public data space 105, and a "dynamic" data space 107. The static data space 103 is non-volatile, whereas the public data space 105 and the dynamic data space 107 are volatile (col. 4, lines 53-58). The public data space 105 and the dynamic data space 107 differ from each other in that the public data space 105 is shared with other applications, whereas the dynamic data space is used by only a single application (col. 2, lines 44-48).

In reading claim 1 onto Everett, the Examiner equates applicants' static objects with Everett's static data space 103, applicants' dynamic file system with Everett's "dynamic" data space 107, and applicants' dynamically performed actions with various actions on the static data space described in the patent. As applicants have previously argued, however, not only is Everett's dynamic data space 107 not a "file system" as claimed by applicants, but the static data space 103 is not "embedded" in that structure as further claimed by applicants.

The Examiner responds basically by refusing to give any patentable weight to the terms "file system" (or "dynamic file system") and embedding. Rather than reargue the "file system" limitation, which applicants have already fully argued, they will merely address one aspect of the Examiner's present argument.

The Examiner argues (page 5) that whereas data objects and storage areas are mentioned a total of five times in applicants' main claims, a file system is only mentioned twice. Therefore, the Examiner concludes, the present invention "concerns static objects in memory" (*id.*). Apparently

the Examiner missed the occurrence of the term "file system" in the claim preamble (e.g., "[a] method for managing a dynamic file system"), where it should count even more heavily since it characterizes the basic subject matter of applicants' invention. More importantly, though, applicants are unaware of any concept in patent law that a claim limitation must be repeated a certain number of times before it can be fully considered.

As for the embedding of the static data space in the dynamic file system, the Examiner argues essentially that the features upon which applicants rely "are not recited in the rejected claim(s)" and that "limitations from the specification are not read into the claims" (page 8). Contrary to the Examiner's assertion, however, applicants are not reading limitations from the specification into the claims, but are merely interpreting the expressly recited term "embedding" in the light of the specification. While the Examiner seizes on applicants' "kind of embedment" language, he ignores language that more straightforwardly explains what is meant by embedding. As stated in the specification (page 3, lines 27-29):

Further, the term 'embedding' does not necessarily mean that the inner part is surrounded from both sides by the 'bed'. Rather, it also includes semi-embedment, in which the static object lies at one end of the overall storage area.

Quite clearly, Everett's static data space 103 is not "embedded" in his dynamic data space 107 within this meaning (or any reasonable meaning) of the term. The static data space 103 is not surrounded from both sides by the dynamic data space 107, nor does the static data space lie at one end of the dynamic data space. This conclusion, it should be noted, does not depend on the construction of the terms "coterminous", "contiguous" and "disjoint", but merely on terms ("surrounded from both sides", "lying at one end") already appearing in the specification.

The Examiner could have argued (if he had relevant prior art) that embedding a static data object in a dynamic file system would have been obvious to a person skilled in the art. Rather than take this tack, however, the Examiner has simply refused to give any weight to the term "embedding". This is plainly impermissible.

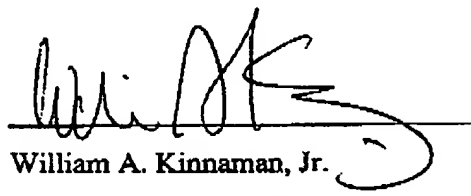
Accordingly, not only are claims 1-7 and 10-18 not anticipated by Everett, but they clearly distinguish patentably over that reference, so the Examiner's rejection of these claims on the reference is untenable.

Conclusion

For the foregoing reasons, claims 1-7 and 10-18 distinguish patentably over the reference cited. Accordingly, applicants respectfully request that the outstanding rejection be withdrawn.

Respectfully submitted,
E.-M. HAMANN et al.

By



William A. Kinnaman, Jr.

Registration No. 27,650

Phone: (845) 433-1175

Fax: (845) 432-9601

WAK/wak